IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.1189 OF 2005

Tulsiwadi Navnirman (SRA) Co-operative Hsg. Soc. Ltd.).. Petitioner

Versus

Tulsiwadi Vikas Co-op. Hsg. Soc. (Proposed) and others).. Respondents

Mr.P.C.Kansara i/b.M/s.Pandya & Poonawala for the Petitioner.

Mr.Y.E.Momen for Respondent Nos.2 to 4.

Mr.A.H.Palekar, AGP, for Respondent Nos.5 to 8.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 24TH MARCH 2005

P.C.:

. This Writ Petition has been filed against the order dated 17th January 2005 passed by the Minister of State for Co-operation, Marketing Textiles and De-Addiction Activities, Government of Maharashtra in Revision No.488 of 2004. The contention raised in this Petition is that on 29th November 2004 the proceedings were adjourned to 15th February 2005 when the Secretary of the Petitioner was present. However, it appears that on 6th January 2005 and later on 14th January 2005 Respondent No.7 has heard Respondent no.1 and has disposed of the application in the absence of the petitioner. This appears to be prima facie correct as

there was no notice to the Petitioner when the matter was heard prior to 15th February 2005. A contention has also been raised in the Petition that the signature has been obtained from somebody claiming to be the Secretary of the Petitioner although no such person represents the Petitioner. An application was, therefore, moved for recalling the order passed on 17th January 2005.

2. It appears that once an order has been passed, Respondent No.7 becomes functus officio and, therefore, he will not be able to recall the order passed. In these circumstances, I am of the view that in the interest of justice the order at Exhibit "O" to the Petition passed on 17th January 2005 is required to be set aside. Accordingly, the order dated 17th January 2005 is set aside. Respondent Nos.7 and 8 will issue notice by 25th April 2005 to the concerned parties including the Petitioner, hear the parties afresh and decide the proceedings in accordance with law.

3. Writ Petition disposed of accordingly.

4. Office to issue authenticated copy of this order.